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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

ALCON ENTERTAINMENT, LLC,
a Delaware Limited Liability
Company,

Plaintiff,

v.

TESLA, INC., a Texas Corporation;
ELON MUSK, an individual;
WARNER BROS. DISCOVERY,
INC., a Delaware Corporation;

Defendants.

CASE NO. 2:24-CV-09033-GW-RAO

**PLAINTIFF ALCON
ENTERTAINMENT, LLC'S
OBJECTIONS AND RESPONSES TO
EXTRINSIC MATERIAL PROFFERS
IN DEFENDANTS TESLA, INC.'S
AND ELON MUSK'S MOTION TO
DISMISS THIRD AMENDED
COMPLAINT**

Hearing Date: January 29, 2026
Time: 8:30 a.m.
Courtroom: 9D
Judicial Officer: Hon. George H. Wu

**OBJECTIONS AND RESPONSES TO EXTRINSIC MATERIAL
PROFFERS IN TESLA AND MUSK MOTION TO DISMISS THIRD
AMENDED COMPLAINT**

Plaintiff Alcon Entertainment, LLC (“Plaintiff” or “Alcon”) makes the following objections and responses to the proffers of extrinsic material made by defendants Elon Musk (“Musk”) and Tesla, Inc. (“Tesla”) in connection with their motion to dismiss Alcon’s Third Amended Complaint (“TAC,” [Dkt. 81]) pursuant to Fed. R. Civ. Pro. 12(b)(6) (“Rule 12(b)(6)”) (“Motion,” [Dkt. 88]).

I. RULE 12(b)(6) EXTRINSIC MATERIAL EXCEPTIONS

On a Rule 12(b)(6) motion, a court may consider material external to the challenged pleading and proffered by the movant without treating the motion as made pursuant to Fed. R. Civ. P. 56 (summary judgment), pursuant to three exceptions: 1) exhibits to the complaint (“First Exception”); 2) documents referenced by the complaint, upon which it “necessarily relies,” and the authenticity of which are undisputed (“Second Exception”); and 3) matters properly subject to judicial notice (“Third Exception”). *U.S. v. Corinthian Colleges*, 655 F.3d 984, 998-99 (9th Cir. 2011); *Lee v. City of Los Angeles*, 250 F.3d 668, 688 (2001). For the Third Exception, Fed. R. Civ. P. 201 allows a court to invoke judicial notice for “two kinds of facts: (1) those that are generally known within the court's territorial jurisdiction; and (2) those that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, for example, almanac, dictionary, calendar or similar sources.” *Walker v. Woodford*, 454 F.Supp.2d 1007, 1022 (S.D. Cal. 2006). In other words, “the fact must be one that only an unreasonable person would insist on disputing.” *Id.* (quoting *United States v. Jones*, 29 F.3d 1549, 1553 (11th Cir. 1994)).

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II. THE MOTION’S PROFFERS AND PLAINTIFF’S POSITIONS

PROFFER NO.	DESCRIPTION	PLAINTIFF POSITION
1	Exhibit 1 to Declaration of Kristen McCallion [Dkt 89-2], described as “a true and correct copy of “The Matrix (1999),” imdb.com, available at https://www.imdb.com/title/tt0133093/mediaviewer/rm525547776/?ref=ext_shr_link , last visited 12/15/2025.”	This screen image of an imdb.com webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
2	Exhibit 2 to Declaration of Kristen McCallion [Dkt 89-3], described as “a true and correct copy of “Fallout: New Vegas, Bethesda Softworks (2010),” cbr.com, available at https://www.cbr.com/fallout-new-vegas-letting-go/ , last visited 12/15/2025.”	This screen image of an imdb.com webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W.</i>

1		<i>Scripps Co.</i> , 529
2		F.Supp.2d 1124, 1129
3		(2007) (taking judicial
4		notice of elements
5		common to a genre but not
6		the works which contained
7		those elements); <i>Silas v.</i>
8		<i>Home Box Office, Inc.</i> , 201
9		F.Supp.3d 1158 (2016)
10		(same, and citing <i>Zella</i>).
11	3	This screen image of an
12		imdb.com webpage is
13		material extrinsic to the
14		TAC, and not subject to
15		any Exception. The Court
16		may not consider this
17		proffer. <i>See Zella v. E.W.</i>
18		<i>Scripps Co.</i> , 529
19		F.Supp.2d 1124, 1129
20		(2007) (taking judicial
21		notice of elements
22		common to a genre but not
23		the works which contained
24		those elements); <i>Silas v.</i>
25		<i>Home Box Office, Inc.</i> , 201
26		F.Supp.3d 1158 (2016)
27		(same, and citing <i>Zella</i>).
28		

1	4	Exhibit 4 to Declaration of Kristen McCallion [Dkt 89-5], described as “a true and correct copy of “I, Robot (2004),” imdb.com, available at https://www.imdb.com/title/tt0343818/plotsummary/?ref_=tt_stry_pl#synopsis , last visited 12/15/2025.”	This screen image of an imdb.com webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
18	5	Exhibit 5 to Declaration of Kristen McCallion [Dkt 89-6], described as “a true and correct copy of “I, Robot misses Asimov’s complexity movie review,” rogerebert.com, available at https://www.rogerebert.com/reviews/i-robot-2004 , last visited 12/15/2025.”	This screen image of a webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements

1		common to a genre but not
2		the works which contained
3		those elements); <i>Silas v.</i>
4		<i>Home Box Office, Inc.</i> , 201
5		F.Supp.3d 1158 (2016)
6		(same, and citing <i>Zella</i>).
7	6	This screen image of an
8	Exhibit 6 to Declaration of Kristen	imdb.com webpage is
9	McCallion [Dkt 89-7], described as “The	material extrinsic to the
10	Book of	TAC, and not subject to
11	Eli (2010),” imdb.com, available at	any Exception. The Court
12	https://www.imdb.com/	may not consider this
13	title/tt1037705/mediaviewer/	proffer. <i>See Zella v. E.W.</i>
14	rm316793601/?ref=ext_shr_ln	<i>Scripps Co.</i> , 529
15	k, last visited 12/15/2025.”	F.Supp.2d 1124, 1129
16		(2007) (taking judicial
17		notice of elements
18		common to a genre but not
19		the works which contained
20		those elements); <i>Silas v.</i>
21		<i>Home Box Office, Inc.</i> , 201
22		F.Supp.3d 1158 (2016)
23		(same, and citing <i>Zella</i>).
24	7	This screen image of an
25	Exhibit 7 to Declaration of Kristen	imdb.com webpage is
26	McCallion [Dkt 89-8], described as “The	material extrinsic to the
27	Book of Eli (2010),” imdb.com,	TAC, and not subject to
28	https://www.imdb.com/	
	title/tt1037705/plotsummary/	
	?ref=tt_stry_pl#synopsis , last	

1		visited 12/15/2025.”	any Exception. The Court
2			may not consider this
3			proffer. <i>See Zella v. E.W.</i>
4			<i>Scripps Co.</i> , 529
5			F.Supp.2d 1124, 1129
6			(2007) (taking judicial
7			notice of elements
8			common to a genre but not
9			the works which contained
10			those elements); <i>Silas v.</i>
11			<i>Home Box Office, Inc.</i> , 201
12			F.Supp.3d 1158 (2016)
13			(same, and citing <i>Zella</i>).
14	8	Exhibit 8 to Declaration of Kristen McCallion [Dkt 89-9], described as “The Book of Eli (2010),” imdb.com, available at https://www.imdb.com/title/tt1037705/mediaviewer/rm3998584320/?ref_ext_shr_lnk , last visited 12/15/2025.”	This screen image of an
15			imdb.com webpage is
16			material extrinsic to the
17			TAC, and not subject to
18			any Exception. The Court
19			may not consider this
20			proffer. <i>See Zella v. E.W.</i>
21			<i>Scripps Co.</i> , 529
22			F.Supp.2d 1124, 1129
23			(2007) (taking judicial
24			notice of elements
25			common to a genre but not
26			the works which contained
27			those elements); <i>Silas v.</i>
28			

1		<i>Home Box Office, Inc.</i> , 201
2		F.Supp.3d 1158 (2016)
3		(same, and citing <i>Zella</i>).
4	9	Exhibit 9 to Declaration of Kristen
5		McCallion [Dkt 89-10], described as “a
6		true and correct copy of “Denzel
7		Washington in a World Where It Pays to
8		be a Loner,” nytimes.com, available at
9		https://www.nytimes.com/
10		2010/01/15/movies/15eli.html, last
11		visited 12/15/2025.”
12		This screen image of an
13		online article is material
14		extrinsic to the TAC, and
15		not subject to any
16		Exception. The Court may
17		not consider this proffer.
18		<i>See Zella v. E.W. Scripps</i>
19		<i>Co.</i> , 529 F.Supp.2d 1124,
20		1129 (2007) (taking
21		judicial notice of elements
22		common to a genre but not
23		the works which contained
24		those elements); <i>Silas v.</i>
25		<i>Home Box Office, Inc.</i> , 201
26		F.Supp.3d 1158 (2016)
27		(same, and citing <i>Zella</i>).
28	10	Exhibit 10 to Declaration of Kristen
		McCallion [Dkt 89-11], described as “a
		true and correct copy of “Dresden
		Files – Jim Butcher,” jim-butcher.com,
		available at https://www.jimbutcher.
		com/books/dresden , last visited
		12/15/2025.”
		This screen image of a
		webpage is material
		extrinsic to the TAC, and
		not subject to any
		Exception. The Court may
		not consider this proffer.
		<i>See Zella v. E.W. Scripps</i>
		<i>Co.</i> , 529 F.Supp.2d 1124,

1		1129 (2007) (taking
2		judicial notice of elements
3		common to a genre but not
4		the works which contained
5		those elements); <i>Silas v.</i>
6		<i>Home Box Office, Inc.</i> , 201
7		F.Supp.3d 1158 (2016)
8		(same, and citing <i>Zella</i>).
9	11	Exhibit 11 to Declaration of Kristen
10		McCallion [Dkt 89-12], described as “a
11		true and correct copy of “Minority
12		Report (2002),” imdb.com, available at
13		https://www.imdb.com/
14		title/tt0181689/plotsummary/
15		?ref_=tt_stry_pl#synopsis, last
16		visited 12/15/2025.”
17		This screen image of an
18		imdb.com webpage is
19		material extrinsic to the
20		TAC, and not subject to
21		any Exception. The Court
22		may not consider this
23		proffer. <i>See Zella v. E.W.</i>
24		<i>Scripps Co.</i> , 529
25		F.Supp.2d 1124, 1129
26		(2007) (taking judicial
27		notice of elements
28		common to a genre but not
		the works which contained
		those elements); <i>Silas v.</i>
		<i>Home Box Office, Inc.</i> , 201
		F.Supp.3d 1158 (2016)
		(same, and citing <i>Zella</i>).
	12	Exhibit 12 to Declaration of Kristen
		McCallion [Dkt 89-13], described as “a
		true and correct copy of “Tom
		This screen image of an
		online article is material

1		Cruise Minority Report,” latimes.com, available at	extrinsic to the TAC, and
2		https://www.latimes.com/entertainment-arts/movies/newsletter/2025-05-16/minority-report-tom-cruise-you-must-remember-this-karina-longworth-suchgood-friends-rich-and-famous-red-line-7000-liberation-of-lb-jones-going-downchung-mong-hung-nymphomaniac-lars-von-trier , last visited 12/15/2025.”	not subject to any
3			Exception. The Court may
4			not consider this proffer.
5			<i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124,
6			1129 (2007) (taking
7			judicial notice of elements
8			common to a genre but not
9			the works which contained
10			those elements); <i>Silas v.</i>
11			<i>Home Box Office, Inc.</i> , 201
12			F.Supp.3d 1158 (2016)
13			(same, and citing <i>Zella</i>).
14			
15	13	Exhibit 13 to Declaration of Kristen McCallion [Dkt 89-14], described as “a true and correct copy of “The Dark Tower - The Gunslinger,”	This screen image of a
16		stephenking.com, available at	webpage is material
17		https://stephenking.com/darktower/book/the_dark_tower_i_the_gunslinger_(revised).html , last visited 12/15/2025.”	extrinsic to the TAC, and
18			not subject to any
19			Exception. The Court may
20			not consider this proffer.
21			<i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124,
22			1129 (2007) (taking
23			judicial notice of elements
24			common to a genre but not
25			the works which contained
26			those elements); <i>Silas v.</i>
27			
28			

1		<i>Home Box Office, Inc.</i> , 201
2		F.Supp.3d 1158 (2016)
3		(same, and citing <i>Zella</i>).
4	14	Exhibit 14 to Declaration of Kristen
5		McCallion [Dkt 89-15], described as “a
6		true and correct copy of “Minority
7		Report – Rotten Tomatoes,”
8		rottentomatoes.com, available at
9		https://www.rottentomatoes.com/
10		tv/minority_report, last visited
11		12/15/2025.”
12		This screen image of a
13		webpage is material
14		extrinsic to the TAC, and
15		not subject to any
16		Exception. The Court may
17		not consider this proffer.
18		<i>See Zella v. E.W. Scripps</i>
19		<i>Co.</i> , 529 F.Supp.2d 1124,
20		1129 (2007) (taking
21		judicial notice of elements
22		common to a genre but not
23		the works which contained
24		those elements); <i>Silas v.</i>
25		<i>Home Box Office, Inc.</i> , 201
26		F.Supp.3d 1158 (2016)
27		(same, and citing <i>Zella</i>).
28	15	Exhibit 15 to Declaration of Kristen
		McCallion [Dkt 89-16], described as “a
		true and correct copy of “Review in
		Minority Report – a Case of
		Precognitive Dissonance,” nytimes.com ,
		available at
		https://www.nytimes.com/
		2015/09/19/arts/television/review-in-
		minority-report-a-case-
		of-precognitive-dissonance.html, last
		visited 12/15/2025.”
		This screens image of an
		online article is material
		extrinsic to the TAC, and
		not subject to any
		Exception. The Court may
		not consider this proffer.
		<i>See Zella v. E.W. Scripps</i>
		<i>Co.</i> , 529 F.Supp.2d 1124,

1		1129 (2007) (taking
2		judicial notice of elements
3		common to a genre but not
4		the works which contained
5		those elements); <i>Silas v.</i>
6		<i>Home Box Office, Inc.</i> , 201
7		F.Supp.3d 1158 (2016)
8		(same, and citing <i>Zella</i>).
9	16	Exhibit 16 to Declaration of Kristen
10		McCallion [Dkt 89-17], described as “a
11		true and correct copy of “Dystopia –TV
12		Tropes,” tvtropes.com, available at
13		https://tvtropes.org/
14		pmwiki/pmwiki.php/Main/Dystopia , last
15		visited 12/15/2025.”
16		This screen image of a
17		webpage is material
18		extrinsic to the TAC, and
19		not subject to any
20		Exception. The Court may
21		not consider this proffer.
22		<i>See Zella v. E.W. Scripps</i>
23		<i>Co.</i> , 529 F.Supp.2d 1124,
24		1129 (2007) (taking
25		judicial notice of elements
26		common to a genre but not
27		the works which contained
28		those elements); <i>Silas v.</i>
		<i>Home Box Office, Inc.</i> , 201
		F.Supp.3d 1158 (2016)
		(same, and citing <i>Zella</i>).
	17	Exhibit 17 to Declaration of Kristen
		McCallion [Dkt 89-18], described as “a
		true and correct copy of “High
		Plains Drifter (1973),” imdb.com,
		available at
		This screen image of an
		imdb.com webpage is
		material extrinsic to the

1		https://www.imdb.com/title/tt0068699/mediaviewer/rm1878002689/?ref=ext_shr_lnk , last visited 12/15/2025.”	TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
15	18	Exhibit 18 to Declaration of Kristen McCallion [Dkt 89-19], described as “Pale Rider (1985),” imdb.com, available at https://www.imdb.com/title/tt0089767/mediaviewer/rm3589190401/?ref=ext_shr_lnk , last visited 12/15/2025.”	This screen image of an imdb.com webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained

		those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
19	Exhibit 19 to Declaration of Kristen McCallion [Dkt 89-20], described as “a true and correct copy of “Once Upon a Time in the West (1986),” imdb.com, available at https://www.imdb.com/title/tt0064116/mediaviewer/rm859539970/?ref_=ext_shr_link , last visited 12/15/2025.”	This screen image of an imdb.com webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
20	Exhibit 20 to Declaration of Kristen McCallion [Dkt 89-21], described as “The Terminator (1984),” imdb.com, available at https://www.imdb.com/title/tt0088247/plotsummary/?ref_=tt_stry_pl#synopsis , last visited on 12/15/2025.”	This screen image of an imdb.com webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this

1		proffer. <i>See Zella v. E.W.</i>
2		<i>Scripps Co.</i> , 529
3		F.Supp.2d 1124, 1129
4		(2007) (taking judicial
5		notice of elements
6		common to a genre but not
7		the works which contained
8		those elements); <i>Silas v.</i>
9		<i>Home Box Office, Inc.</i> , 201
10		F.Supp.3d 1158 (2016)
11		(same, and citing <i>Zella</i>).
12	21	This screen image of an
13	Exhibit 21 to Declaration of Kristen	online article is material
14	McCallion [Dkt 89-22], described as “30	extrinsic to the TAC, and
15	Minutes on The Terminator,”	not subject to any
16	rogerebert.com, available at	Exception. The Court may
17	https://www.rogerebert.com/mzs/30-	not consider this proffer.
18	minutes-on-the-terminator , last visited	<i>See Zella v. E.W. Scripps</i>
19	on 12/15/2025.”	<i>Co.</i> , 529 F.Supp.2d 1124,
20		1129 (2007) (taking
21		judicial notice of elements
22		common to a genre but not
23		the works which contained
24		those elements); <i>Silas v.</i>
25		<i>Home Box Office, Inc.</i> , 201
26		F.Supp.3d 1158 (2016)
27		(same, and citing <i>Zella</i>).
28		

1	22	Exhibit 22 to Declaration of Kristen McCallion [Dkt 89-23], described as “a true and correct copy of “Westworld at 50 – Michael Crichton Bleak Vision of AI remains chilling,” theguardian.com, https://www.theguardian.com/film/2023/aug/17/westworld-ai-michael-crichton , last visited on 12/15/2025.”	This screen image of an online article is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
17	23	Exhibit 23 to Declaration of Kristen McCallion [Dkt 89-24], described as “Westworld (1973),” imdb.com, available at https://www.imdb.com/title/tt0070909/plotsummary/?ref_=tt_stry_pl#synopsis , last visited 12/15/2025.”	This screen image of an imdb.com webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements

		common to a genre but not the works which contained those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
24	Exhibit 24 to Declaration of Kristen McCallion [Dkt 89-25], described as “a true and correct copy of “Dredd (2012),” imdb.com, available at https://www.imdb.com/title/tt1343727/plotsummary/?ref_=tt_stry_pl#synopsis , last visited 12/15/2025.”	This screen image of an imdb.com webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
25	Exhibit 25 to Declaration of Kristen McCallion [Dkt 89-26], described as “a true and correct copy of “X-Men: Days of Future Past (2014),” imdb.com, available at	This screen image of an imdb.com webpage is material extrinsic to the TAC, and not subject to

1		https://www.imdb.com/title/tt1877832/plotsummary/?ref_=tt_stry_pl#synopsis , last visited 12/15/2025.”	any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
14	26	Exhibit 26 to Declaration of Kristen McCallion [Dkt 89-27], described as “a true and correct copy of “Dystopian,” Merriam-Webster Dictionary, available at https://www.merriamwebster.com/dictionary/dystopian , last visited 12/15/2025.”	For purposes of the Motion, the document satisfies the Third Exception. The Court may consider it.
19	27	Exhibit 27 to Declaration of Kristen McCallion [Dkt 89-28], described as “a true and correct copy of “Badass Longcoat – TV Tropes,” tvtropes.com, available at https://tvtropes.org/pmwiki/pmwiki.php/Main/BadassLongcoat , last visited 12/15/2025.”	This screen image of a webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking

1			judicial notice of elements
2			common to a genre but not
3			the works which contained
4			those elements); <i>Silas v.</i>
5			<i>Home Box Office, Inc.</i> , 201
6			F.Supp.3d 1158 (2016)
7			(same, and citing <i>Zella</i>).
8	28	Exhibit 28 to Declaration of Kristen McCallion [Dkt 89-29], described as “a true and correct copy of “Resident Evil: Extinction (2007),” imdb.com, available at https://www.imdb.com/title/tt0432021/mediaviewer/rm955159552/?ref=ext_shr_in k, last visited 12/15/2025.”	This screen image of an
9			imdb.com webpage is
10			material extrinsic to the
11			TAC, and not subject to
12			any Exception. The Court
13			may not consider this
14			proffer. <i>See Zella v. E.W.</i>
15			<i>Scripps Co.</i> , 529
16			F.Supp.2d 1124, 1129
17			(2007) (taking judicial
18			notice of elements
19			common to a genre but not
20			the works which contained
21			those elements); <i>Silas v.</i>
22			<i>Home Box Office, Inc.</i> , 201
23			F.Supp.3d 1158 (2016)
24			(same, and citing <i>Zella</i>).
25	29	Exhibit 29 to Declaration of Kristen McCallion [Dkt 89-30], described as “Mad Max: Fury Road (2015),” imdb.com, available at	This screen image of an
26			imdb.com webpage is
27			material extrinsic to the
28			

1		https://www.imdb.com/title/tt1392190/mediaviewer/rm801511937/?ref=ext_shr_link , last visited 12/15/2025.”	TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained those elements); <i>Silas v. Home Box Office, Inc.</i> , 201 F.Supp.3d 1158 (2016) (same, and citing <i>Zella</i>).
15	30	Exhibit 30 to Declaration of Kristen McCallion [Dkt 89-31], described as “I am Legend (2007),” imdb.com, available at https://www.imdb.com/title/tt0480249/mediaviewer/rm3931047424/?ref=ext_shr_link , last visited 12/15/2025.”	This screenshot of an imdb.com webpage is material extrinsic to the TAC, and not subject to any Exception. The Court may not consider this proffer. <i>See Zella v. E.W. Scripps Co.</i> , 529 F.Supp.2d 1124, 1129 (2007) (taking judicial notice of elements common to a genre but not the works which contained

1		those elements); <i>Silas v.</i>
2		<i>Home Box Office, Inc.</i> , 201
3		F.Supp.3d 1158 (2016)
4		(same, and citing <i>Zella</i>).
5	31	This is a factual assertion
6		outside the FAC, and not
7		subject to any of the
8		Exceptions. The Court
9		should not consider it. <i>See</i>
10		<i>Dillon v. NBCUniversal</i>
11		<i>Media LLC</i> , No. CV 12-
12		09728 SJO AJWX, 2013
13		WL 3581938, at *5 (C.D.
14		Cal. June 18, 2013) (citing
15		Fed. R. Evid. 201(b)(1)
16		and denying request for
17		judicial notice of elements
18		common to reality
19		television shows because
20		they are not generally
21		known); <i>Capcom Co. v.</i>
22		<i>MKR Grp., Inc.</i> , No. C 08-
23		0904 RS, 2008 WL
24		4661479, at *4 (N.D. Cal.
25		Oct. 20, 2008) (denying
26		request for judicial notice
27		of elements common to
28		

1		zombie-related movies and
2		videogames because they
3		are not generally known).
4		<i>See also Blye v. California</i>
5		<i>Supreme Ct.</i> , No. CV 11-
6		5046-DWM, 2014 WL
7		295022, at *1 (N.D. Cal.
8		Jan. 21, 2014) (“A request
9		for judicial notice is not a
10		proper vehicle for legal
11		argument.”).
12		
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15	32	This is a factual assertion
16	“An “Urgent Human-AI Relationship”	outside the FAC, and not
17	theme is common to dystopian science-	subject to any of the
18	fiction stories.” (Request for Judicial	Exceptions. The Court
19	Notice [Dkt 89-1] at 7:1-2.)	should not consider it. <i>See</i>
20		<i>Dillon v. NBCUniversal</i>
21		<i>Media LLC</i> , No. CV 12-
22		09728 SJO AJWX, 2013
23		WL 3581938, at *5 (C.D.
24		Cal. June 18, 2013) (citing
25		Fed. R. Evid. 201(b)(1)
26		and denying request for
27		judicial notice of elements
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		<p>common to reality television shows because they are not generally known); <i>Capcom Co. v. MKR Grp., Inc.</i>, No. C 08-0904 RS, 2008 WL 4661479, at *4 (N.D. Cal. Oct. 20, 2008) (denying request for judicial notice of elements common to zombie-related movies and videogames because they are not generally known). <i>See also Blye v. California Supreme Ct.</i>, No. CV 11-5046-DWM, 2014 WL 295022, at *1 (N.D. Cal. Jan. 21, 2014) (“A request for judicial notice is not a proper vehicle for legal argument.”).</p>
33	<p>“A mood of anxiety, fear, and urgency about the “Human-AI Relationship” is common to dystopian science-fiction stories.” (Request for Judicial Notice [Dkt 89-1] at 8:10-13.)</p>	<p>This is a factual assertion outside the FAC, and not subject to any of the</p>

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		Exceptions. The Court should not consider it. <i>See Dillon v. NBCUniversal Media LLC</i> , No. CV 12-09728 SJO AJWX, 2013 WL 3581938, at *5 (C.D. Cal. June 18, 2013) (citing Fed. R. Evid. 201(b)(1) and denying request for judicial notice of elements common to reality television shows because they are not generally known); <i>Capcom Co. v. MKR Grp., Inc.</i> , No. C 08-0904 RS, 2008 WL 4661479, at *4 (N.D. Cal. Oct. 20, 2008) (denying request for judicial notice of elements common to zombie-related movies and videogames because they are not generally known). <i>See also Blye v. California Supreme Ct.</i> , No. CV 11-5046-DWM, 2014 WL 295022, at *1 (N.D. Cal.
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1		Jan. 21, 2014) (“A request
2		for judicial notice is not a
3		proper vehicle for legal
4		argument.”).
5	34	This is a factual assertion
6		outside the FAC, and not
7		subject to any of the
8		Exceptions. The Court
9		should not consider it. <i>See</i>
10		<i>Dillon v. NBCUniversal</i>
11		<i>Media LLC</i> , No. CV 12-
12		09728 SJO AJWX, 2013
13		WL 3581938, at *5 (C.D.
14		Cal. June 18, 2013) (citing
15		Fed. R. Evid. 201(b)(1)
16		and denying request for
17		judicial notice of elements
18		common to reality
19		television shows because
20		they are not generally
21		known); <i>Capcom Co. v.</i>
22		<i>MKR Grp., Inc.</i> , No. C 08-
23		0904 RS, 2008 WL
24		4661479, at *4 (N.D. Cal.
25		Oct. 20, 2008) (denying
26		request for judicial notice
27		of elements common to
28		

1		zombie-related movies and
2		videogames because they
3		are not generally known).
4		<i>See also Blye v. California</i>
5		<i>Supreme Ct.</i> , No. CV 11-
6		5046-DWM, 2014 WL
7		295022, at *1 (N.D. Cal.
8		Jan. 21, 2014) (“A request
9		for judicial notice is not a
10		proper vehicle for legal
11		argument.”).
12	35	“The use of Image C . . . was not for
13		commercial gain.” (Mot. [Dkt. 88-1] at
14		19:1.)
15		This is a factual assertion
16		outside the FAC, and not
17		subject to any of the
18		Exceptions. The Court
19		should not consider it.
20	36	“. . . Alcon retains the same flexibility to
21		use Blade Runner 2099 to promote a car
22		brand as it had for BR2049.” (Mot. [Dkt
23		88-1] at 21:22-23.)
24		This is a factual assertion
25		outside the FAC, and not
26		subject to any of the
27		Exceptions. The Court
28		should not consider it.
	37	“. . . Alcon can continue to negotiate
		“[t]he number of seconds, their
		divisibility, and exclusivity” for Blade
		Runner 2099 with any car brand.” (Mot.
		[Dkt. 88-1] at 21:25-26.)
		This is a factual assertion
		outside the FAC, and not
		subject to any of the
		Exceptions. The Court
		should not consider it.

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DATED: January 7, 2026

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